

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

CHARLES R. NAY,

Plaintiff,

v.

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

Civ. No. 4:13-00030-FL

ORDER

Plaintiff's counsel filed a motion for approval of attorney fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), in the amount of \$8,692.25. Attorney fees awarded under 42 U.S.C. § 406(b) may not exceed 25% of the total of the claimant's past-due benefits. Plaintiff has previously been awarded attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of \$3,762.50. Defendant filed a response, stating that, under *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee.

It is ORDERED that Plaintiff's counsel be awarded fees under 42 U.S.C. § 406(b) in the amount of \$8,692.25. Plaintiff's counsel will refund to Plaintiff the smaller amount between this amount and any fee amount that he previously received under the EAJA.

SO ORDERED, this 21st day of August, 2018.



Hon. Louise W. Flanagan
United States District Judge
Eastern District of North Carolina